

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH JAIPUR

J U D G M E N T

Punjab National Bank V/S Yahya Khan and others

S.B.Civil First Appeal No.162/90
against the judgment and decree
dated 9.7.1990 passed by Shri
Brijlal Bundel, Addl. District
Judge, Dholpur in Civil Suit
No. 30/1985.

Date of Judgment ::: August 8, 2006

PRESENT

HON'BLE MR. JUSTICE KHEM CHAND SHARMA

Mr. N.K. Maloo for the appellants
None for the respondents

BY THE COURT:

This appeal under Section 96 CPC arises out of the judgment and decree dated 9.7.1990 passed by the learned Additional District Judge, Dholpur whereby the learned Judge has dismissed the plaintiffs' suit on the ground of it being barred by limitation.

The suit was filed on 17.9.1984. In sub paras (9) and 10) of para No.10 of the plaint the plaintiff Bank has tried to explain as to how the suit was within limitation, by referring to the acknowledgements dated

18.4.1981 and 13.4.1982 in respect of outstanding amount of 31.12.1980 and 31.12.1980. However, the plaintiff bank has not been able to prove the above two acknowledgements by adducing evidence either ocular or documentary. Having gone through the evidence on record it appears that plaintiff bank could prove acknowledgement of loan by the loanee only up to 21.11.1976. The plaintiff has failed to prove acknowledgements after 21.11.1976 and therefore, the suit has been filed after a lapse of more than 7 years. The trial court on elaborate discussion of evidence has rightly held the suit to be barred by limitation.

So far as grievance of the plaintiff appellant that the trial court has not granted sufficient opportunity to lead evidence is concerned, suffice it to observe that trial court has granted reasonable and sufficient opportunity to the plaintiff to lead evidence. The issues were framed on 20.8.1987 and the case was adjourned to 19.1.1988 for recording plaintiff's evidence. On 19.1.88, the case was adjourned to 5.4.88 at the request of plaintiff's advocate. Thereafter the case was adjourned to 8.8.88,

4.11.1988, 24.1.1989, 3.4.89, 18.7.1989, 8.9.89,
7.10.89, 4.11.89, 8.12.89 and 15.1.1990. Even on
6.3.1990 time was granted to the plaintiff on cost, but
still the plaintiff failed to lead evidence. On
25.5.1990 the plaintiff closed the evidence.

Thereafter the plaintiff filed an application under
Sec. 151 CPC which was allowed at the cost of Rs.
100/- and one more opportunity was granted to the
plaintiff to lead evidence, but still the plaintiff
could not produce any evidence and ultimately, the
trial court vide its order dated 1.6.1990 closed the
plaintiff's evidence. It is thus emphatically clear
that that despite more than sufficient opportunities
having been granted, the plaintiff could not lead
evidence.

Consequently, the appeal fails on both the counts
and is hereby dismissed.

(Khem Chand Sharma), J.

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